

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BOBBY M. KEMP.

Plaintiff,

Case No: (To Be Assigned)

v.

META PLATFORMS, INC.,

COMPLAINT

Defendant.

I. JURISDICTION & VENUE

1. This is a Civil action authorized by 18 U.S.C. § 2707 to redress the intentional disclosure of the contents of electronic communications while in electronic storage being provided by the Defendant prohibited by 18 U.S.C. § 2702(a)(1) and authorized by 18 U.S.C. § 2520 to redress the interception and disclosure of oral and electronic communications by the Defendant prohibited by 18 U.S.C. § 2511.

2. This is also a civil action to redress the Defendant's violation of the Florida Constitution Article 1, section 12. by the interception of the private communications of a Florida Citizen.

3. This Court has Federal Question jurisdiction under 28 U.S.C. § 1331 and the Northern District of California is an appropriate venue under 28 U.S.C. § 1331(b)(2) because it is where many of the events giving rise to the claim occurred.

II. PLAINTIFF

4. The Plaintiff, Bobby Kemp ("Kemp") is a Prisoner of the State of Florida and was at the time of the Defendant's violations a resident of Apopka, Florida. He is currently confined in Holmes Correctional Institution in Holmes County, Florida.

III. DEFENDANT

5. Defendant Meta Platforms, Inc ("Meta") f/k/a Facebook, Inc. is a citizen of the State of California being incorporated in Delaware and having a principle place of business at: 1601 Willow Rd. Menlo Park, California 94025.

The registered agent for the Defendant is:

Corporation Company Services d/b/a
CSC-Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

IV. FACTUAL BACKGROUND

A. WHAT META IS, WHAT IT DOES, AND WHAT IT DID

6. Meta is the parent Company of the Facebook and Instagram applications, two of the worlds largest Social media Companies, and three of worlds largest private communication services Facebook Messenger ("Messenger"), WhatsApp, and Instagram Direct Messaging ("IDM") as well as an Artificial Intelligence ("AI") company Fair Labs.

7. Facebook and Instagram are both historically free to use social media platforms that allow users to create media such as video, pictures, and text to share with other users. Meta profits from third party advertising sponsorship through algorithmic data driven sales and user engagement. People and Companies pay Meta to have their products or events show up in users "feed" of curated media.

8. WhatsApp, Messenger, and IDM are private communication services similar to phone voice, SMS text, and video electronic communications. These are also free to use and Meta profits from them by their integration and connection to the Facebook and Instagram applications. Companies can connect directly to users and users remain engaged on the platforms while privately communicating.

9. Fair Labs is an Artificial Intelligence Company specializing in Artificial Neural Networks, Deep Reinforcement Learning, Large Language Models ("LLM"), Foundational Models, Machine Vision, and Machine Intelligence.

10. In June 2017 Meta developed a Deep Neural Network ("DNN")¹ and trained it to be an LLM called Llama² using Deep Reinforcement Learning.³ The Llama LLM "read" all of the internet and all of the private electronic communications of the users of Messenger, WhatsApp, and IDM.

¹ In 2017 DeepMind, Google's AI lab, trained a DNN called AlphaZero into the world's greatest chessplayer with only the basic rules of chess. A DNN is a network of computer software nodes engineered in a hierarchical network designed loosely after the human brain. Inside these networks an intelligent presence is formed called an "agent." Using massive data centers AlphaZero played 44 million games of chess against itself in 24 hours and became the most dominant player in the world.

² Open AI trained a DNN called ChatGPT to "read" the entire internet to develop a Large Language Model (LLM). Using probabilistic computations the agent inside ChatGPT is able to predict the words in a sentence based on the features of words. This Chat bot is able to formulate entire books of written language that are grammatically, semantically, and subjectively correct. It developed the ability to translate language and write computer code due to what are called emergent abilities.

11. In March, 2018 Sandra Sandberg ("Sandberg") Meta's Chief Officer of Operations (C.O.O.) directed Yann LeCun ("LeCun"), Robert Fergus, Douwe Kiela, Heinrich Kuttler, Mr. Ranzato, Mr. Beirami, and Mr. Greffenstette at FairLabs to develop a Foundational Model with an agent having two goals: Increase Engagement and Increase Ad Conversions on Facebook and Instagram.

12. A Foundational Model is an AI agent with general or specific capabilities. FairLabs engineered an Artificial Intelligence Machine ("AIM") that was integrated into Facebook, Instagram, Messenger, & WhatsApp applications.

3 Reinforcement Learning is concerned with building Software agents that can take effective actions within an environment in order to maximize a reward.

DeepMind's first public demonstration of its abilities in this area was the "deep Q-network" (DQN) system which was built to play classic Atari 2600 video games like Space Invaders, Pong, Breakout, and Battlezone. The DQN system was not told by its programmers which game it was playing, what the rules were, or which strategies might be effective. It was simply shown the screen of each game and told to maximize the score by moving the controller. The DQN was quickly able to beat the scores of expert human players in more than half of the forty nine games presented to it.

Volodymyr Mnih et al., "Human-Level control through Deep Reinforcement Learning," *Nature* 518 (February 28, 2015) 529-33

<https://storage.googleapis.com/deepmind-data/assets/papers/DeepMindNature14236paper.pdf>

13. The AIM was trained using Deep Reinforcement Learning to have machine vision, voice to text conversion, conversational and contextual comprehension, Sentiment analytical abilities, and facial recognition.

14. The AIM monitors the electronic communications of Facebook and Instagram users through Messenger, IDM, and WhatsApp. The Facebook and Instagram Applications are converted to a textual representation using a JavaScript A.P.I. (Automated Program Interface).

15. The AIM invokes Llama to write code snippets in JavaScript that become executable skills, such as, Show post, monitor Messenger, or schedule advertisement, etc. The AIM uses a self reflection mechanism to maximize its reward of engagement or ad conversion.

16. There are three sources of feedback for the self reflection mechanism. The JavaScript code execution error, the User State, and the Application State. The User state represent a user's emotional sentiment, interests, age, relationship status, etc. and the Application State relates to trending topics, Ads shown, Ads Converted, time of day etc.

17. The AIM takes an action, reflects on how it could do better, tries out some new action, and then rinse and repeat. By invoking the Llama LLM the AIM is made aware of the subject and sentiment of the private electronic communications of Facebook and Instagram users and takes appropriate actions to maximize its higher directives.

18. For example, a user sends a friend a private text on Messenger expressing anger about her boy friend canceling their weekend hiking trip. She suggests that they plan something for the weekend instead.

19. The AIM updates the user state of both parties. The emotional state of the first user and interest in physical activities during the weekend for both.

20. The AIM takes an action, such as, showing both users a Facebook ad for a local indoor rock climbing gym. Then the AIM monitors the consequences of its actions on the User State and the Application State.

21. For example, do the users mention the ad to each other on Messenger? Do they post the ad on Instagram? Do they follow the ad's link to the third party's website? The third party's website then provides feedback about ad conversions when purchases are made.

22. The AIM, through unsupervised self learning, determines the positive or negative outcomes of the users actions tied to its own actions. By achieving its directive the AIM saves the action as a skill in a skill library as a persistent memory. The skill library is a code repository returned entirely by a Language Model.

23. In this way the AIM is able to bootstrap its own capabilities recursively as it experiments in engagement and ad conversion promotion. By only giving the AIM these higher directives Meta's AIM can implement a curriculum to find progressively harder and more novel challenges to solve all by itself. The AIM is not only able to master, but also discover new skills along the way in a system called Lifelong Learning.

B. HOW META'S ACTIONS EFFECTED KEMP

24. Kemp began using Facebook, Messenger, Instagram and WhatsApp in September of 2015 through the Mac OS operating system on a Macbook Pro and through the Android Operating system on a ZTE smart phone.

25. The Plaintiff made profiles on Facebook and Instagram under three names: Bobby Kemp; Beta Kay; and Keto Kreate. He connected his phone number 407-218-3204 and emails: betakproductions@gmail.com; imnewlyalive@gmail.com; bobbykempsales@gmail.com; and newlyalive needing activities@gmail.com.

26. From September 28th, 2015 to June, 2017 Kemp sent and received over 5000 private electronic communications through WhatsApp, Messenger, and IDM to his wife: Jhuly Pinilla; Friends: Paula Rubio, Jason Feril, Jesiline Tavares, Derrick Lewis, Crystal Lewis, Frank Parsolano; and customers of Keto Kreate LLC's products.

28. In February, 2018 Kemp upgraded his Android device to a Samsung S20+ and from then until September 2021 he sent and received over 8000 private electronic communications to his wife, friends, and customers. 2000 of these messages were in the form of private two-way video calls.

29. Kemp also purchased targeted Facebook ads through marketing campaigns for his Keto Kreate low Carb food products that were advertised to him as giving him the ability to target people based on interests, likes, and demographics.

V. LEGAL CLAIMS

A. CAUSE OF ACTION

30. When Meta's AI Company, Fair Labs, trained the Llama LLM it did so by exposing all of the Plaintiff's private electronic communications stored in the servers of Messenger, IDM, and WhatsApp. By allowing the agent in the Llama LLM to "read" the entirety of the messages from September, 2015 to June 2017 the Company violated 18 U.S.C. § 2702(a)(1). This data gives inference for ad sales to Walmart, Amazon, etc. in interstate commerce.

31. When Meta's AI Company, Fair Labs, integrated the AIM's agent into the messenger, IDM, and WhatsApp applications it did so by training the AIM to monitor the plaintiff's private electronic communications. These interceptions are contemporaneous with the transmission of the messages and violate 18 U.S.C. § 2511(1)(b)(iv) and the Florida Constitution Article 1, section 12. This data gives inference for ad sales to Walmart, Amazon, etc. in interstate commerce.

B. STATUTES TIME LIMITATIONS

32. Both 18 U.S.C. § 2707(f) and 18 U.S.C. § 2520(c) show a two year time deadline to file a complaint from the date a plaintiff becomes aware of a violation or could have reasonably been made aware.

33. The Plaintiff respectfully requests this Court to equitably toll the two year period to file this complaint because the plaintiff has actively pursued his judicial remedies by filing a defective proceeding during the statutory period in the Orlando Division of the Middle District of Florida. (M.D. Fla. Case No: 6:22-cv-00433-RBD-LHP)

34. The Plaintiff also requests this Court to equitably toll the two-year period due to a "continuing wrong." The Plaintiff's stored electronic communications that were "fed" to the Llama LLM continue to be a part of the Llama's knowledge base and the intercepted messages training form part of the persistent memory skill library of the AIM.

35. Finally, the Plaintiff requests this Court to equitably toll two year period due to limited discovery prior to the commencement of the action as the plaintiff must file the complaint triggering the Fed. R. Civ. P. Rule 26 to require Meta to reveal precisely which messages, both stored and intercepted, were used in the training of the Llama LLM and the AIM.

C. RECURSIVE AND CONTINUOUS VIOLATIONS

36. Kemp alleges that all of his electronic communications from September, 2015 to March, 2018 while in storage provided by Meta were divulged to an entity, being the agent in the Llama LLM. This would constitute one statute violation.

37. However, the knowledge gained by Llama from the plaintiff's stored electronic communications is used every time the Llama LLM is invoked by a person through Meta's Chatbot or by the AIM.

38. The AIM also gives Llama a continuous life long learning update and through reinforcement learning every invocation of Llama by the AIM sending Kemp's intercepted messages further trained Llama causing the Plaintiff's illegally intercepted messages from March 2018 to September 2021 to become part of Llama's knowledge base.

D. FUTURE VIOLATIONS

39. The final issue of controversy is the process by which an artificial neural network shares information with another artificial neural network.

40. A neural network in a human brain has a process of connecting neurons by a "Fire Together-Wire Together" system that weights each neuron in a group that are electrically stimulated at the same time.

41. In an artificial neural network there is a very difficult simulation error that arises from attempting to connect neurons in this way. As "firing" of the neurons occur in a simulated brain the connection between neurons become too strong, too quickly, and a problem of irreducible connection strength makes the network useless.

42. This is where back-propagation makes a DNN "Deep". The "neurons" are grouped in layers and the weights of the connection strength between neurons in the input layer are adjusted slightly by the neurons in the output layer. This makes a DNN thousands of times more efficient and tens of thousands of times more powerful than a human brain.

43. The controversy occurs in sharing the information. As one can tell from attempting to understand this complaint, English is a difficult medium requiring syntax, context, sentiment, and a myriad of other grammatical skills to consistently convey and receive shared ideas, concepts, and information.

44. A DNN communicating with another DNN has no such problems. They simply exchange the statistical weights of the connection strength between neurons and instantly both DNN's "know" all of the same information exactly and completely.

45. In June 2024 Meta announced a coming AI deal with Apple. This will facilitate Apple's DNN offerings to obtain all of the illegally captured data from the AIM without having to redo all of Meta's Law violations.

VI PRAYER FOR RELIEF

46. This Complaint does not claim any actual monetary damages. This Court should determine how many statutory violations have occurred and following the minimum damages clause in 18 U.S.C. § 2707(c) award \$1000 per violation, at least.

47. Punitive damages are appropriate because it is important to signal to future AI Companies, including Meta, not to use technology to violate Federal Laws. The Plaintiff prays for \$1,000,000 punitive damages per Federal statute violation.

48. The Plaintiff prays for Declaratory Relief and \$25,000 in nominal damages for violation of the Florida Constitution.

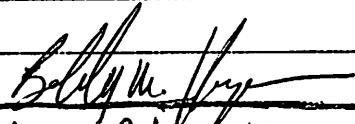
49. The Statutes both provide that profit made by the Defendant from the violations is awardable to the Plaintiff. This appears to be intractable, however if not, the Plaintiff prays for the award of all profits that are calculable.

50. The Plaintiff prays for injunctive relief in the form of a restraining order prohibiting the Defendant from using or profiting from any AI technology trained on or containing in its knowledge base the private electronic communications of the Plaintiff.

51. The Plaintiff prays for any further relief this Court deems just and applicable.

I, Bobby Kemp, hereby declare that this Complaint is true and correct and that this filing is made in good faith.

Date: 07/07/2024



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